

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- against - :

BEAR, STEARNS & CO. INC., :

Defendant. :

-----X

-----X

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- against - :

JACK BENJAMIN GRUBMAN, :

Defendant. :

-----X

-----X

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- against - :

J.P. MORGAN SECURITIES INC., :

Defendant. :

-----X

Civil Action No.

03 Civ. 2937 (WHP)

**PLAINTIFF SEC'S RESPONSES  
TO THE COURT'S  
JULY 25, 2012 ORDER  
REGARDING INVESTOR  
EDUCATION**

Civil Action No.

03 Civ. 2938 (WHP)

Civil Action No.

03 Civ. 2939 (WHP)

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SECURITIES AND EXCHANGE COMMISSION,	:	
	:	Civil Action No.
Plaintiff,	:	
	:	03 Civ. 2940 (WHP)
- against -	:	
	:	
LEHMAN BROTHERS, INC.,	:	
	:	
Defendant.	:	
-----X	:	
-----X	:	
SECURITIES AND EXCHANGE COMMISSION,	:	
	:	Civil Action No.
Plaintiff,	:	
	:	03 Civ. 2941 (WHP)
- against -	:	
	:	
MERRILL LYNCH, PIERCE, FENNER &	:	
SMITH INCORPORATED,	:	
	:	
Defendant.	:	
-----X	:	
-----X	:	
SECURITIES AND EXCHANGE COMMISSION,	:	
	:	Civil Action No.
Plaintiff,	:	
	:	03 Civ. 2942 (WHP)
- against -	:	
	:	
U.S. BANCORP PIPER JAFFRAY, INC.,	:	
	:	
Defendant.	:	
-----X	:	

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SECURITIES AND EXCHANGE COMMISSION,	:	
	:	Civil Action No.
Plaintiff,	:	
	:	03 Civ. 2943 (WHP)
- against -	:	
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UBS WARBURG LLC,	:	
	:	
Defendant.	:	
-----X	:	
-----X	:	
SECURITIES AND EXCHANGE COMMISSION,	:	
	:	Civil Action No.
Plaintiff,	:	
	:	03 Civ. 2944 (WHP)
- against -	:	
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GOLDMAN, SACHS & CO.,	:	
	:	
Defendant.	:	
-----X	:	
-----X	:	
SECURITIES AND EXCHANGE COMMISSION,	:	
	:	Civil Action No.
Plaintiff,	:	
	:	03 Civ. 2945 (WHP)
- against -	:	
	:	
CITIGROUP GLOBAL MARKETS, INC., F/K/A	:	
SALOMON SMITH BARNEY INC.,	:	
	:	
Defendant.	:	
-----X	:	

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SECURITIES AND EXCHANGE COMMISSION,	:	
	:	Civil Action No.
Plaintiff,	:	
	:	03 Civ. 2946 (WHP)
- against -	:	
	:	
CREDIT SUISSE FIRST BOSTON LLC,	:	
F/K/A CREDIT SUISSE FIRST BOSTON	:	
CORPORATION,	:	
	:	
Defendant.	:	
-----X	:	
-----X	:	
SECURITIES AND EXCHANGE COMMISSION,	:	
	:	Civil Action No.
Plaintiff,	:	
	:	03 Civ. 2947 (WHP)
- against -	:	
	:	
HENRY McKELVEY BLODGET,	:	
	:	
Defendant.	:	
-----X	:	
-----X	:	
SECURITIES AND EXCHANGE COMMISSION,	:	
	:	Civil Action No.
Plaintiff,	:	
	:	03 Civ. 2948 (WHP)
- against -	:	
	:	
MORGAN STANLEY & CO. INCORPORATED,	:	
	:	
Defendant.	:	
-----X	:	

-----X	:	
SECURITIES AND EXCHANGE COMMISSION,	:	
	:	Civil Action No.
Plaintiff,	:	
	:	04 Civ. 6909 (WHP)
- against -	:	
	:	
DEUTSCHE BANK SECURITIES INC.,	:	
	:	
Defendant.	:	
-----X	:	
-----X	:	
SECURITIES AND EXCHANGE COMMISSION,	:	
	:	Civil Action No.
Plaintiff,	:	
	:	04 Civ. 6910 (WHP)
- against -	:	
	:	
THOMAS WEISEL PARTNERS LLC,	:	
	:	
Defendant.	:	
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**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S RESPONSES TO THE COURT'S JULY 25, 2012 ORDER REGARDING INVESTOR EDUCATION**

The Securities and Exchange Commission ("SEC") takes its responsibility for overseeing the FINRA Investor Education Foundation's ("Foundation") expenditure of the investor education funds ("Settlement Funds") seriously, and devotes significant staff resources to that oversight. Before providing the SEC's responses to the Court's July 25, 2012 Order ("July 25 Order"), this submission briefly describes the process by which the SEC oversees the Foundation's use of Settlement Funds and collaborates with the Foundation on a range of investor education activities.

**I. The SEC's Oversight of the Use of Global Settlement Funds**

Each quarter, the Foundation submits to the SEC staff a draft of the report required to be filed pursuant to the Court's September 2, 2005 Order. These draft reports, including summaries of grants that have been vetted by the Foundation's staff and then approved or declined by the Foundation's Board, are independently reviewed by the staff of the Division of Enforcement ("Enforcement"), as well as by Lori Schock, the director of the SEC's Office of Investor Education and Advocacy ("OIEA"), who is a direct report to the SEC's Chairman. Although, as a general matter, the SEC staff does not second-guess the Foundation Board's grant-making decisions, the SEC staff discusses internally any aspects of the draft report that raise questions or require clarification from the Foundation. As described further below, Ms. Schock and other OIEA staff are in regular contact with the Foundation as part of their normal responsibilities, and thus are sometimes able to answer Enforcement's questions without contacting the Foundation. In other instances, the SEC staff contacts the staff of the Foundation to request additional information or clarification, or to provide comments on the draft report. The Foundation staff subsequently finalizes the report and provides it to the SEC for filing with the Court.

For example, the SEC staff has in the past, among other things, asked the Foundation staff to provide more detail in its quarterly report about the activities of law clinics receiving Settlement Funds, asked for an explanation concerning an increase in general and administrative expenses for 2010 as compared to the prior year, asked for more information about the number of grant applications that were declined, and raised questions concerning particular grants. In addition, the SEC staff noted during the report review process that the Foundation did not use Settlement Funds to pay for its 2009 National Financial Capability Study. Following discussions between OIEA and the Foundation staff, in which it was noted that such use of Settlement Funds

was consistent with the Court's September 2, 2005 Order, Exhibit A, page 2, which describes the types of projects and funding that the Foundation may pursue to include "research that expands the body of knowledge and offers solutions in the field of investor education and protection," the Foundation board subsequently approved the use of Settlement Funds to conduct the 2012 National Financial Capability Study.

The SEC staff exercises oversight responsibilities in other ways, as well. The Court's September 2, 2005 Order provides that members of the Foundation's board must be acceptable to the SEC. When the Foundation has proposed candidates for its board, the SEC staff has conducted due diligence on those candidates and prepared memoranda to the Commission concerning the candidates before advising the Foundation whether the candidates were acceptable. In some instances, the Commission staff has identified to the Foundation concerns regarding potential board candidates, who then were not nominated.

In addition, after learning of the 2010 internal audit concerning the Foundation, the Commission staff reviewed the audit report, met with the audit team, discussed the report and related issues with the Foundation's senior management and counsel, and followed up with the Foundation's senior management and counsel on the implementation of recommendations arising from the audit. The internal audit was described in the Foundation's report for the third quarter of 2010, and a detailed list of the recommendations and implementation status was included in the Foundation's report for the fourth quarter and year ended December 31, 2010 ("Fourth Quarter 2010 Report"), which was filed on June 24, 2011. *See SEC v. Bear, Stearns & Co. Inc.*, No. 03 Civ. 2937 (WHP), Dkt. No. 318 and 319. The Foundation's board approved the Fourth Quarter 2010 Report at a meeting on May 31, 2011. *See SEC v. Bear, Stearns & Co. Inc.*, No. 03 Civ. 2937 (WHP), Dkt. No. 321, at 6.



## **II. The SEC's Collaboration with the Foundation**

In addition to exercising oversight of the Foundation's use of Settlement Funds, the staff of the SEC's OIEA interacts with the Foundation and its staff on a regular basis. In many aspects, the work of OIEA complements the work of the Foundation, as well as FINRA's investor education efforts apart from the Foundation. Consequently, the staffs of OIEA and FINRA routinely discuss ongoing investor education initiatives, including potential investor alerts and bulletins, upcoming investor events, congressionally mandated studies, and other financial literacy efforts such as the Financial Literacy Education Commission and the President's Advisory Council on Financial Capability, both administered by the U.S. Treasury. During the course of this work, OIEA maintains a regular dialogue with the Foundation's president and staff.

Moreover, OIEA is actively engaged in many of the Foundation's activities, including targeted projects supported by Settlement Funds such as the Military Financial Education Project, the Investor Protection Campaign, the National Financial Capability Study, and certain grant projects. For example, when the Foundation launched the Military Financial Education Project ("Military Project") in 2006, the SEC joined the Department of Defense and other government agencies and non-profit groups in promoting this initiative. Over time, SEC Commissioners and staff have supported the Military Project by participating in outreach events for all branches of the armed services.

Since 2009, OIEA also has participated in the Foundation's Investor Protection Campaign, working with the Foundation, state securities regulators, AARP, and other non-profit organizations dedicated to protecting investors from fraud. An event was held at the SEC to launch the Investor Protection Campaign's DVD for an audience of financial literacy advocates



in the fall of 2009. Additionally, OIEA uses the curriculum developed through the Investor Protection Campaign to train SEC and FINRA regional office staff to conduct investor outreach in their local areas. This approach allows the SEC to broaden the reach of the program in a cost-effective manner.

OIEA also has been involved in the Foundation's National Financial Capability Study ("Study"). The Foundation sought input from, and consulted with, OIEA staff when it developed the questionnaire used in the 2009 Study. OIEA staff also participated in the National Financial Capability Study Roundtable in May 2012 in preparation for the 2012 Study.

### **III. Responses to the Court's July 25 Order**

#### **A. Accounting of Receipts and Expenses**

The Court's July 25 Order directed the SEC and Foundation to file "an accounting of receipts and expenses in reasonable detail" for the years ended December 31, 2010, December 31, 2011, and the six months ended June 30, 2012. Exhibit A to the Foundation's August 24, 2012 letter filed with the Court ("Foundation's Letter") provides a detailed accounting of receipts and expenses for these periods. *See SEC v. Bear, Stearns & Co. Inc.*, No. 03 Civ. 2937 (WHP), Dkt. No. 334. The amounts in Exhibit A to the Foundation's Letter reconcile to the Foundation's audited financial statements for the years ended December 31, 2010 and 2011, while the amounts for the six months ended June 30, 2012 are based on interim financial data that has not yet been audited. The SEC consulted with the Foundation staff regarding the format of Exhibit A and, pending any further direction from the Court, the Foundation will use this format to present its receipts and expenses in future quarterly reports.

**B. Accounting of the Costs for the November 3-4, 2011 *State and Future of Financial Fraud* Conference**

The July 25 Order directed the SEC to obtain an accounting from the Foundation of the costs of the *State and Future of Financial Fraud* conference (the “conference”) hosted by the Financial Fraud Research Center (“Fraud Center”) in Washington, DC on November 3-4, 2011 and file it with the Court. The Foundation provided the following accounting of the expenditures for the conference, which totaled \$54,793.17, to the SEC:

<b><u>Conference Venue (Hotel Sofitel)</u></b>	
Audio-Visual Support and Equipment (2 days)	\$7,146.26
Conference Meals (reception for 80 on Nov. 3; breakfast, lunch and 2 breaks for 110 on Nov. 3-4)	\$26,220.03
<b>Subtotal</b>	<b>\$33,366.29</b>
<b><u>Travel and Miscellaneous</u></b>	
Accommodations and Tax for 7 speakers, 3 Stanford University staff, and 1 Fraud Center Advisory Committee Member (\$330.91 per night at Hotel Sofitel)	\$7,941.84
Travel and non-conference meals for 6 speakers and 1 Advisory Committee member	\$5,757.32
Travel and non-conference meals for 3 Stanford staff	\$2,333.31
Parking at Hotel Sofitel	\$359.99
Supplies from Stanford University Bookstore	\$34.42
<b>Subtotal</b>	<b>\$16,426.88</b>
<b><u>Keynote Speaker Fee</u></b>	<b>\$5,000</b>
<b>Total Conference Cost</b>	<b>\$54,793.17</b>

The Foundation’s Letter includes a table detailing these expenditures, as well as additional information regarding the conference. See Foundation Letter at 3-4, 15, and Ex. B. The Fraud

Center is a joint project between the Stanford Center on Longevity and the Foundation, and part of the Foundation's Investor Protection Campaign. As director of OIEA, Ms. Schock serves on the Fraud Center's advisory council with other regulators, academics, and non-profit leaders. The Fraud Center is an initiative to combine research with practical efforts to combat financial fraud. The conference, which was attended by 110 researchers, representatives of the FBI, Department of Justice, state regulators, and other law enforcement officials, was an important part of this effort.

**C. Selection of Eight Primary States for the Foundation's Investor Protection Campaign**

The July 25 Order also directed the Foundation to explain how eight states were selected as the "eight primary states" in the Investor Protection Campaign, and directed the SEC to provide a statement as to why it was appropriate to select these eight states. The Foundation's Letter discusses the rationale for selecting these states, as well as more detail about the development, goals, and activities of the Investor Protection Campaign. *See* Foundation Letter at 4-6, 9-19. The SEC provided the platform for the launch of research behind the campaign when the SEC held its first Senior Summit in 2006. The Investor Protection Campaign subsequently evolved based on additional research, curriculum development, and pilot testing. The SEC believes that the states targeted by the Foundation for the Investor Protection Campaign were appropriate based on the factors identified by the Foundation, which included targeting states with high senior populations, willing and capable state-level partners, and geographical diversity. *See* Foundation Letter at 4-6.

**D. The SEC's Filing of the Foundation's Annual Financial Audits**

On July 26, 2012, the SEC submitted a letter to the Court that included additional information concerning the SEC's filing of the Foundation's 2010 annual audit and its filing of

annual independent audits of the Foundation as required by the Court's September 2, 2005 Order. *See SEC v. Bear, Stearns & Co. Inc.*, No. 03 Civ. 2937 (WHP), Dkt. No. 332. The SEC believes that it is current in its filing of the Foundation's annual financial audits.

We hope that the information provided above and in the Foundation's Letter addresses the Court's questions and concerns regarding the use and oversight of the investor education funds. We would be pleased to answer any additional questions or provide additional information that the Court requires.

Date: August 31, 2012

Respectfully submitted,

A handwritten signature in blue ink, reading "M. Alexander Koch", is written over a horizontal line.

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Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that, on August 31, 2012, I caused the foregoing Notice of Plaintiff Securities and Exchange Commission to be served on the following by ECF and by e-mail transmission pursuant to agreement among the parties:

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Date: August 31, 2012

  
M. Alexander Koch